

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

---

AARON L. HARTMAN,

Plaintiff,

v.

NATIONAL BOARD OF MEDICAL  
EXAMINERS,

Defendant.

---

Case No. 09-5028

**NATIONAL BOARD OF MEDICAL EXAMINERS' REPLY MEMORANDUM OF LAW  
IN SUPPORT OF MOTION FOR PARTIAL STAY PENDING APPEAL**

Defendant, National Board of Medical Examiners ("NBME") submits this Reply Memorandum of Law in Support of Motion for Partial Stay in accordance with the Court's revised briefing schedule.

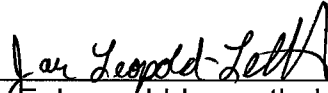
As an initial matter, NBME notes that it is inappropriate for Plaintiff's Counsel to suggest that NBME's efforts to agree upon the language of the Preliminary Injunction somehow estop NBME from seeking a partial stay of that Injunction. The Court ordered the NBME to confer with Plaintiff's Counsel regarding the language of the Preliminary Injunction Order. NBME did so in good faith and with an express reservation of its rights.

Second, given the extension the Court granted Plaintiff to file his response to NBME's Motion for a Partial Stay, the parties are quickly approaching the April 21, 2010 date by which the Court has ordered NBME to release Mr. Hartman's score from the Step 2 Clinical Skills examination that he took on March 24 and 25, 2010, without

using the text-to-speech technology. If Mr. Hartman obtains a passing score on that examination, it may be unnecessary for NBME to release Mr. Hartman's score from the Step 2 Clinical Skills examination which he subsequently took using text-to-speech technology, in which event NBME would no longer need the Partial Stay that it has requested from the Court. NBME therefore requests that the Court hold NBME's pending Motion for Partial Stay *in abeyance* until the parties know whether Mr. Hartman achieved a passing score on the administration without the text-to-speech accommodations to which NBME objected. NBME will promptly notify the Court and Plaintiff as soon as Mr. Hartman's scores are known.

Respectfully submitted,

EASTBURN AND GRAY, P.C.

  
Jane E. Leopold-Leventhal  
Grace M. Deon  
60 East Court Street  
P.O. Box 1389  
Doylestown, PA 18901  
Telephone: 215-345-7000  
Facsimile: 215-345-9142

*Attorneys for Defendant,  
National Board of Medical Examiners*

Dated: April 14, 2010